IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 26523 of 2006(G)

PETITIONER:

G. JEES LUKOSE, S/O. LUKOSE,
AGED 31 YEARS, AGRICULTURAL ASSISTANT
KRISHI BHAVAN, MUTTAM, THODUPUZHA.

BY ADV. SRI.T.V.GEORGE
SMT.LINDA GEORGE

RESPONDENTS:
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1. STATE OF KERALA, REP. BY SECRETARY
TO AGRICULTURE DEPARTMENT, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.

2. DIRECTOR OF AGRICULTURE,
VIKAS BHAVAN, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. P. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 26523/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE TRANSFER ORDER NO. E (1) 5562/04 (2) DT. 6/5/04 BY PRINCIPAL AGRL. OFFICER, IDUKKI.

EXT.P2. COPY OF THE TRANSFER ORDER NO. SE(3) 38639/06 DT. 15/09/06 BY R2.

EXT.P3. COPY OF THE RESOLUTION 1(3) BY THE UDUMPANNOOR GRAMA PANCHAYATH COMMITTEE HELD ON 8/12/04.

EXT.P4. COPY OF THE REPRESENTATION DT. 30/09/06 PREFERRED BY THE PETITIONER BEFORE THE R2.

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K.BALAKRISHNAN NAIR, J.

W.P.(C) No.26523 of 2006-G

Dated this the 12th day of June, 2007.

J U D G M E N T

The petitioner challenges Ext.P2 order by which he has been transferred from Idukki District and allotted to the Principal Agricultural Office, Ernakulam for being posted in Ernakulam District. The same is being done based on a vigilance report dated 4-8-2006. The petitioner submits, the said order is vitiated by non-application of mind as he is shown to be working at Udumbannur. As a matter of fact he was transferred from Udumbannur to Muttom, as early as on 5-6-2004, by Ext.P1 order. It is also submitted that the earlier vigilance enquiry against him was closed and Ext.P1 order was issued transferring him to Muttom. Therefore, the present transfer by Ext.P2 is unjustified.

2. Ext.P1 is a transfer order issued in 2004, whereas Ext.P2 order is issued on 15-9-2006, based on a vigilance report dated 4-8-2006. Therefore, the contention of the petitioner that the vigilance enquiry against him was concluded cannot be accepted. When the appointing authority transfers an employee on the basis of the instructions given by the Vigilance Department, this Court is not justified in interfering with the same. No valid ground has been raised

in the writ petition warranting interference with the order of transfer. The petitioner submits, he has already preferred Ext.P4 representation before the second respondent. If Ext.P4 representation is received and pending, the same will be considered and disposed of by the second respondent within one month from the date of production of a copy of this judgment, provided the petitioner produces a copy of this judgment before the second respondent, within two weeks from today. Since the petitioner is accused of corruption and on the recommendation of the Vigilance and Anti-corruption Bureau, I feel that it is not proper for this Court to further order retention of the petitioner, pending disposal of Ext.P4.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS